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11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,) CR 07-0428 MMC
14)
Plaintiff,) STIPULATION AND [PROPOSED] ORDER
15) CONTINUING DATE FOR CHANGE OF PLEA
vs.) HEARING
16)
CARMEN CHAN and PAUL LEUNG,)
17)
Defendants.)
18)
_____)

19 This matter is currently on the Court's calendar for change of plea hearing this Wednesday, May
20 21, 2008. The parties hereby stipulate to continue the date to July 9, 2008 for the reasons set forth
21 herein.

22 At the outset, the Court should be aware that all parties are confident the matter will resolve by
23 way of plea, but both sides have had to undertake significant legal and factual investigation in order to
24 determine the appropriate restitution amount as well as negotiate a proper disposition.

25 At the last calling of the case, the government provided the defense with a written proposed plea
26 agreement that included approximately ten pages of detailed analysis and discussion involving California
27 wage and hour law. Defendants conducted their own investigation into the assumptions behind the
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1 government's proposed and responded with a detailed analysis and exhibits including recent a recent
2 California appellate case that has bearing on the proper calculation of restitution in this matter.

3 The parties are negotiating in good faith, but require more time to reach agreement on the
4 appropriate methodology and calculation of back wages due. In addition, there is a parallel civil case
5 based around the same incidents that give rise to the instant action, and the defendants are attempting
6 to negotiate a settlement with plaintiff's counsel in that case. With the additional time, achieving a final
7 settlement with the government will facilitate settlement with plaintiffs in that case as well.¹

8 In addition, defendants have a pre-planned business trip from June 3 - June 12. Mr. Lew is in
9 trial in Alameda County Superior Court the week of June 16 and that date is firm. AUSA Barton is in
10 trial the week of June 23, and Mr. Siroka has a preplanned vacation the following week.

11 The parties agree that the ends of justice served by the continuance requested herein outweigh
12 the best interest of the public and the defendants in a speedy trial because the failure to grant the
13 continuance would deny counsel for the defendants the reasonable time necessary for effective
14 preparation, taking into account the exercise of due diligence. Time should therefore be excluded
15 pursuant to 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

16 SO STIPULATED.

17
18 DATED: May 19, 2008

19 /s/ Denise Marie Barton
Counsel for the Government

/s/Garrick S. Lew
Counsel for Defendant Chan

/s/Matthew A. Siroka
Counsel for Defendant Leung

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¹ The settlement discussion in the civil case is do not involve the U.S. Attorney's Office, rather it is that the agreed-upon restitution calculations in this case will carry great weight with the parties in the civil case, such that settlement should follow in due course.

ORDER

Good cause appearing;

IT IS HEREBY ORDERED that the change of plea hearing in this matter be continued until July 9, 2008.

IT IS FURTHER ORDERED that time under the Speedy Trial Act be excluded pursuant to 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv). The Court finds the ends of justice served by the continuance requested herein outweigh the best interest of the public and the defendants in a speedy trial because the failure to grant the continuance would deny counsel for the defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence

DATED: May____, 2008

The Honorable Maxine M. Chesney
United States Magistrate Judge